

Department of Veterans Affairs

§21.51

(3) Whether the achievement of a vocational goal is currently reasonably feasible as described in §21.53.

(Authority: 38 U.S.C. 3102, 3103)

(c) *Factors for assessment as part of the initial evaluation.* In making the determinations under paragraph (b) of this section, the following factors will be developed and assessed:

(1) The handicapping effects of the individual's service-connected and non-service-connected disability(ies) on employability and on independence in daily living;

(2) The individual's physical and mental capabilities that may affect employability and ability to function independently in daily living activities in family and community;

(3) The impact of the individual's identified vocational impairments on the individual's ability to prepare for, obtain, and keep suitable employment;

(4) The individual's abilities, aptitudes, and interests;

(5) The individual's personal history and current circumstances (including educational and training achievements, employment record, developmental and related vocationally significant factors, and family and community adjustment); and

(6) Other factors that may affect the individual's employability.

(Authority: 38 U.S.C. 3106(a))

(d) *Need for cooperation in the initial evaluation process.* The individual's cooperation is essential in the initial evaluation process. If the individual does not cooperate, the CP or VRC will make reasonable efforts to secure the individual's cooperation. If, despite those efforts, the individual fails to cooperate, VA will suspend the initial evaluation process (see §21.362, regarding satisfactory conduct and cooperation, and §21.364, regarding unsatisfactory conduct and cooperation).

(Authority: 38 U.S.C. 3111)

[72 FR 14042, Mar. 26, 2007, as amended at 75 FR 3165, Jan. 20, 2010]

§21.51 Determining employment handicap.

For the purposes of §21.50, an employment handicap will be found to exist only if a CP or VRC determines that the individual meets each of the following conditions:

(a) *Vocational impairment.* The individual has a vocational impairment; that is, an impairment of the ability to prepare for, obtain, or keep employment in an occupation consistent with his or her abilities, aptitudes, and interests.

(b) *Effects of impairment not overcome.* The individual has not overcome the effects of the individual's impairment of employability through employment in, or qualifying for employment in, an occupation consistent with his or her abilities, aptitudes, and interests. This situation includes an individual who qualifies for a suitable job, but who does not obtain or keep the job for reasons beyond his or her control.

(Authority: 38 U.S.C. 3102)

(c) *Contribution of the service-connected disability(ies) to the individual's overall vocational impairment.* (1) Except as provided in paragraph (c)(3) of this section, the service-connected disability(ies) must contribute in substantial part to the individual's overall vocational impairment. This means that the disability(ies) must have an identifiable, measurable, or observable causative effect on the overall vocational impairment, but need not be the sole or primary cause of the employment handicap.

(2) When determining the individual's overall vocational impairment, the CP or VRC will consider the factors identified in §21.50(c).

(3) For determinations made on applications for vocational rehabilitation filed on or after March 30, 1995, but before October 9, 1996, the individual's service-connected disability(ies) need not contribute to the individual's overall vocational impairment.

(Authority: 38 U.S.C. 3101, 3102)

[72 FR 14042, Mar. 26, 2007]